

REFERENCE TITLE: comprehensive transaction privilege tax

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2092

Introduced by
Representative Bradley

AN ACT

AMENDING SECTIONS 42-5010, 42-5061, 42-5062, 42-5063, 42-5064, 42-5067, 42-5071, 42-5073, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5010, Arizona Revised Statutes, is amended to
3 read:

4 ~~42-5010.~~ Rates: distribution base

5 A. The tax imposed by this article is levied and shall be collected at
6 the following rates:

7 1. ~~Five~~ THREE AND ONE-HALF per cent of the tax base as computed for
8 the business of every person engaging or continuing in this state in the
9 following business classifications described in article 2 of this chapter:

- 10 (a) Transporting classification.
- 11 (b) Utilities classification.
- 12 (c) Telecommunications classification.
- 13 (d) Pipeline classification.
- 14 (e) Private car line classification.
- 15 (f) Publication classification.
- 16 (g) Job printing classification.
- 17 (h) Prime contracting classification.
- 18 (i) Owner builder sales classification.
- 19 (j) Amusement classification.
- 20 (k) Restaurant classification.
- 21 (l) Personal property rental classification.
- 22 (m) Retail classification.
- 23 (n) SERVICES CLASSIFICATION.

24 2. ~~Five and one-half~~ THREE AND ONE-HALF per cent of the tax base as
25 computed for the business of every person engaging or continuing in this
26 state in the transient lodging classification described in section 42-5070.

27 3. Three and ~~one-eighth~~ ONE-HALF per cent of the tax base as computed
28 for the business of every person engaging or continuing in this state in the
29 mining classification described in section 42-5072.

30 4. ~~Zero~~ THREE AND ONE-HALF per cent of the tax base as computed for
31 the business of every person engaging or continuing in this state in the
32 commercial lease classification described in section 42-5069.

33 B. Twenty per cent of the tax revenues collected at the rate
34 prescribed by subsection A, paragraph 1 of this section from persons on
35 account of engaging in business under the business classifications listed in
36 subsection A, paragraph 1, subdivisions (a) through (i) of this section is
37 designated as distribution base for purposes of section 42-5029.

38 C. Forty per cent of the tax revenues collected at the rate prescribed
39 by subsection A, paragraph 1 of this section from persons on account of
40 engaging in business under the business classifications listed in subsection
41 A, paragraph 1, subdivisions (j) through ~~(m)~~ (n) of this section is
42 designated as distribution base for purposes of section 42-5029.

43 D. Thirty-two per cent of the tax revenues collected from persons on
44 account of engaging in business under the business classification listed in

1 subsection A, paragraph 3 of this section is designated as distribution base
2 for purposes of section 42-5029.

3 E. Fifty-three and one-third per cent of the tax revenues collected
4 from persons on account of engaging in business under the business
5 classification listed in subsection A, paragraph 4 of this section is
6 designated as distribution base for purposes of section 42-5029.

7 F. Fifty per cent of the tax revenues collected from persons on
8 account of engaging in business under the business classification listed in
9 subsection A, paragraph 2 of this section is designated as distribution base
10 for purposes of section 42-5029.

11 G. In addition to the rates prescribed by subsection A of this
12 section, if approved by the qualified electors voting at a statewide general
13 election, an additional rate increment is imposed and shall be collected
14 through June 30, 2021. The taxpayer shall pay taxes pursuant to this
15 subsection at the same time and in the same manner as under subsection A of
16 this section. The department shall separately account for the revenues
17 collected with respect to the rates imposed pursuant to this subsection and
18 the state treasurer shall distribute all of those revenues in the manner
19 prescribed by section 42-5029, subsection E. The rates imposed pursuant to
20 this subsection shall not be considered local revenues for purposes of
21 article IX, section 21, Constitution of Arizona. The additional tax rate
22 increment is levied at the rate of six-tenths of one per cent of the tax base
23 of every person engaging or continuing in this state in a business
24 classification listed in subsection A, paragraph 1 of this section.

25 H. Any increase in the rate of tax that is imposed by this chapter and
26 that is enacted by the legislature or by a vote of the people does not apply
27 with respect to contracts entered into by prime contractors or pursuant to
28 written bids made by prime contractors on or before the effective date of the
29 legislation or the date of the election enacting the increase. To qualify
30 for the exemption under this subsection, the prime contractor must maintain
31 sufficient documentation, in a manner and form prescribed by the department,
32 to verify the date of the contract or written bid.

33 I. For taxpayers taxable under this chapter other than prime
34 contractors taxable pursuant to section 42-5075:

35 1. Any increase in the rate of tax that is levied by this article or
36 article 2 of this chapter enacted by the legislature or by a vote of the
37 people does not apply for a period of one hundred twenty days from the date
38 of the tax rate increase to the gross proceeds of sales or gross income from
39 the business of the taxpayer with respect to written contracts entered into
40 before the effective date of the tax rate increase unless the taxpayer has
41 entered into a contract that contains a provision that entitles the taxpayer
42 to recover from the purchaser the amount of the additional tax levied.

43 2. ~~The provisions of~~ This subsection ~~apply~~ APPLIES without regard to
44 the accounting method used by the taxpayer to report the taxes imposed under
45 article 2 of this chapter.

3. ~~The provisions of~~ This subsection shall not be considered in determining the rate of tax imposed under chapter 6, article 3 of this title.

Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification: definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

~~3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.~~

~~4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.~~

~~5.~~ 3. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

~~6.~~ 4. Business activity which is properly included in any other business classification which is taxable under THIS article ~~2 of this chapter.~~

~~7.~~ 5. The sale of stocks and bonds.

~~8.~~ 6. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

~~9.~~ 7. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional WHO IS licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

~~10.~~ 8. Insulin, insulin syringes and glucose test strips.

~~11.~~ 9. Prescription eyeglasses or contact lenses.

~~12.~~ 10. Hearing aids as defined in section 36-1901.

~~13.~~ 11. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

~~14.~~ 12. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

~~15.~~ 13. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

~~16.~~ 14. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

~~17.~~ 15. Textbooks by any bookstore that are required by any state university or community college.

~~18.~~ 16. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

~~19.~~ 17. Articles of food, drink or condiment and accessory tangible personal property to a school district if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district during school hours.

~~20. Lottery tickets or shares pursuant to title 5, chapter 5, article 1.~~

~~21.~~ 18. The sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax. For the purposes of this paragraph:

(a) "Monetized bullion" means coins and other forms of money which are manufactured from gold, silver or other metals and which have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(b) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, which has been smelted or refined so that its value depends on its contents and not on its form.

~~22.~~ 19. Motor vehicle fuel and use fuel which are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel which are subject to the tax imposed under section 28-8344 and sales of jet fuel which are subject to the tax imposed under article 8 of this chapter.

~~23.~~ 20. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

~~24.~~ 21. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

~~25.~~ 22. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

~~26.~~ 23. Magazines or other periodicals or other publications by this state to encourage tourist travel.

~~27.~~ 24. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

~~(b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.~~

~~(c)~~ (b) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph ~~8~~ 7.

~~28.~~ 25. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special ninety
2 day nonresident registration permit for the vehicle as prescribed by sections
3 28-2154 and 28-2154.01.

4 (b) An enrolled member of an Indian tribe who resides on the Indian
5 reservation established for that tribe.

6 ~~29.~~ 26. Tangible personal property purchased in this state by a
7 nonprofit charitable organization that has qualified under section 501(c)(3)
8 of the United States internal revenue code and that engages in and uses such
9 property exclusively in programs for mentally or physically handicapped
10 persons if the programs are exclusively for training, job placement,
11 rehabilitation or testing.

12 ~~30. Sales of tangible personal property by a nonprofit organization~~
13 ~~that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)~~
14 ~~of the internal revenue code if the organization is associated with a major~~
15 ~~league baseball team or a national touring professional golfing association~~
16 ~~and no part of the organization's net earnings inures to the benefit of any~~
17 ~~private shareholder or individual.~~

18 ~~31.~~ 27. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

23 ~~32.~~ 28. Sales of tangible personal property by a nonprofit
24 organization that is exempt from taxation under section 501(c)(3), 501(c)(4),
25 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
26 organization sponsors or operates a rodeo featuring primarily farm and ranch
27 animals and no part of the organization's net earnings inures to the benefit
28 of any private shareholder or individual.

29 ~~33.~~ 29. Sales of seeds, seedlings, roots, bulbs, cuttings and other
30 propagative material to persons who use those items to commercially produce
31 agricultural, horticultural, viticultural or floricultural crops in this
32 state.

33 ~~34.~~ 30. Machinery, equipment, technology or related supplies that are
34 only useful to assist a person who is physically disabled as defined in
35 section 46-191, has a developmental disability as defined in section 36-551
36 or has a head injury as defined in section 41-3201 to be more independent and
37 functional.

38 ~~35.~~ 31. Sales of tangible personal property that is shipped or
39 delivered directly to a destination outside the United States for use in that
40 foreign country.

41 ~~36. Sales of natural gas or liquefied petroleum gas used to propel a~~
42 ~~motor vehicle.~~

43 ~~37.~~ 32. Paper machine clothing, such as forming fabrics and dryer
44 felts, sold to a paper manufacturer and directly used or consumed in paper
45 manufacturing.

~~38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41 1514.02 and directly used or consumed in the generation or provision of on site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.~~

~~39.~~ 33. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

~~40.~~ 34. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or upon the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

~~41.~~ 35. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

~~42.~~ 36. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing or renting such
2 property.

3 ~~43.~~ 37. Livestock and poultry feed, salts, vitamins and other
4 additives for livestock or poultry consumption that are sold to persons who
5 are engaged in producing livestock, poultry, or livestock or poultry products
6 or who are engaged in feeding livestock or poultry commercially. For the
7 purposes of this paragraph, "poultry" includes ratites.

8 ~~44.~~ 38. Sales of implants used as growth promotants and injectable
9 medicines, not already exempt under paragraph ~~8- 6~~ of this subsection, for
10 livestock or poultry owned by or in possession of persons who are engaged in
11 producing livestock, poultry, or livestock or poultry products or who are
12 engaged in feeding livestock or poultry commercially. For the purposes of
13 this paragraph, "poultry" includes ratites.

14 ~~45. Sales of motor vehicles at auction to nonresidents of this state~~
15 ~~for use outside this state if the vehicles are shipped or delivered out of~~
16 ~~this state, regardless of where title to the motor vehicles passes or its~~
17 ~~free on board point.~~

18 ~~46.~~ 39. Tangible personal property sold to a person engaged in
19 business and subject to tax under the transient lodging classification if the
20 tangible personal property is a personal hygiene item or articles used by
21 human beings for food, drink or condiment, except alcoholic beverages, which
22 are furnished without additional charge to and intended to be consumed by the
23 transient during the transient's occupancy.

24 ~~47. Sales of alternative fuel, as defined in section 1-215, to a used~~
25 ~~oil fuel burner who has received a permit to burn used oil or used oil fuel~~
26 ~~under section 49-426 or 49-480.~~

27 ~~48.~~ 40. Sales of materials that are purchased by or for publicly
28 funded libraries including school district libraries, charter school
29 libraries, community college libraries, state university libraries or
30 federal, state, county or municipal libraries for use by the public as
31 follows:

32 (a) Printed or photographic materials, beginning August 7, 1985.

33 (b) Electronic or digital media materials, beginning July 17, 1994.

34 ~~49. Tangible personal property sold to a commercial airline and~~
35 ~~consisting of food, beverages and condiments and accessories used for serving~~
36 ~~the food and beverages, if those items are to be provided without additional~~
37 ~~charge to passengers for consumption in flight. For the purposes of this~~
38 ~~paragraph, "commercial airline" means a person holding a federal certificate~~
39 ~~of public convenience and necessity or foreign air carrier permit for air~~
40 ~~transportation to transport persons, property or United States mail in~~
41 ~~intrastate, interstate or foreign commerce.~~

42 ~~50. Sales of alternative fuel vehicles if the vehicle was manufactured~~
43 ~~as a diesel fuel vehicle and converted to operate on alternative fuel and~~
44 ~~equipment that is installed in a conventional diesel fuel motor vehicle to~~

~~convert the vehicle to operate on an alternative fuel, as defined in section 1-215.~~

~~51.~~ 41. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

~~52. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.~~

~~53.~~ 42. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~54.~~ 43. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

~~55.~~ 44. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange

equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

~~4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.~~

~~5.~~ 4. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

~~6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.~~

~~7.~~ 5. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

~~8.~~ 6. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

~~9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.~~

~~10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.~~

~~11.~~ 7. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience

and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

~~12-~~ 8. Groundwater measuring devices required under section 45-604.

~~13-~~ 9. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines ~~not already exempt under paragraph 6 of this subsection and~~ that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment which have never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

~~14-~~ 10. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

~~15-~~ 11. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are

1 leased to businesses that complement the production needs and orientation of
2 the overall facility.

3 ~~16. Tangible personal property that is used by either of the following~~
4 ~~to receive, store, convert, produce, generate, decode, encode, control or~~
5 ~~transmit telecommunications information:~~

6 ~~(a) Any direct broadcast satellite television or data transmission~~
7 ~~service that operates pursuant to 47 Code of Federal Regulations part 25.~~

8 ~~(b) Any satellite television or data transmission facility, if both of~~
9 ~~the following conditions are met:~~

10 ~~(i) Over two-thirds of the transmissions, measured in megabytes,~~
11 ~~transmitted by the facility during the test period were transmitted to or on~~
12 ~~behalf of one or more direct broadcast satellite television or data~~
13 ~~transmission services that operate pursuant to 47 Code of Federal Regulations~~
14 ~~part 25.~~

15 ~~(ii) Over two-thirds of the transmissions, measured in megabytes,~~
16 ~~transmitted by or on behalf of those direct broadcast television or data~~
17 ~~transmission services during the test period were transmitted by the facility~~
18 ~~to or on behalf of those services.~~

19 ~~For the purposes of subdivision (b) of this paragraph, "test period" means~~
20 ~~the three hundred sixty-five day period beginning on the later of the date on~~
21 ~~which the tangible personal property is purchased or the date on which the~~
22 ~~direct broadcast satellite television or data transmission service first~~
23 ~~transmits information to its customers.~~

24 ~~17.~~ 12. Clean rooms that are used for manufacturing, processing,
25 fabrication or research and development, as defined in paragraph ~~14~~ 10 of
26 this subsection, of semiconductor products. For the purposes of this
27 paragraph, "clean room" means all property that comprises or creates an
28 environment where humidity, temperature, particulate matter and contamination
29 are precisely controlled within specified parameters, without regard to
30 whether the property is actually contained within that environment or whether
31 any of the property is affixed to or incorporated into real property. Clean
32 room:

33 (a) Includes the integrated systems, fixtures, piping, movable
34 partitions, lighting and all property that is necessary or adapted to reduce
35 contamination or to control airflow, temperature, humidity, chemical purity
36 or other environmental conditions or manufacturing tolerances, as well as the
37 production machinery and equipment operating in conjunction with the clean
38 room environment.

39 (b) Does not include the building or other permanent, nonremovable
40 component of the building that houses the clean room environment.

41 ~~18.~~ 13. Machinery and equipment used directly in the feeding of
42 poultry, the environmental control of housing for poultry, the movement of
43 eggs within a production and packaging facility or the sorting or cooling of
44 eggs. This exemption does not apply to vehicles used for transporting eggs.

~~19.~~ 14. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

~~20.~~ 15. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

~~21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:~~

~~(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.~~

~~(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.~~

~~(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.~~

~~22.~~ 16. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

~~23.~~ 17. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this deduction, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the
2 cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

5 4. Tangible personal property used in selling or distributing
6 activities, ~~other than the telecommunications transmissions described in~~
7 ~~subsection B, paragraph 16 of this section.~~

8 5. Motor vehicles required to be licensed by this state, except buses
9 or other urban mass transit vehicles specifically exempted pursuant to
10 subsection B, paragraph ~~11~~ 7 of this section, without regard to the use of
11 such motor vehicles.

12 6. Shops, buildings, docks, depots and all other materials of whatever
13 kind or character not specifically included as exempt.

14 7. Motors and pumps used in drip irrigation systems.

15 D. In addition to the deductions from the tax base prescribed by
16 subsection A of this section, there shall be deducted from the tax base the
17 gross proceeds of sales or gross income derived from sales of machinery,
18 equipment, materials and other tangible personal property used directly and
19 predominantly to construct a qualified environmental technology
20 manufacturing, producing or processing facility as described in section
21 41-1514.02. This subsection applies for ten full consecutive calendar or
22 fiscal years after the start of initial construction.

23 E. In computing the tax base, gross proceeds of sales or gross income
24 from retail sales of heavy trucks and trailers does not include any amount
25 attributable to federal excise taxes imposed by 26 United States Code section
26 4051.

27 F. In computing the tax base, gross proceeds of sales or gross income
28 from the sale of use fuel, as defined in section 28-5601, does not include
29 any amount attributable to federal excise taxes imposed by 26 United States
30 Code section 4091.

31 G. If a person is engaged in an occupation or business to which
32 subsection A of this section applies, the person's books shall be kept so as
33 to show separately the gross proceeds of sales of tangible personal property
34 and the gross income from sales of services, and if not so kept the tax shall
35 be imposed on the total of the person's gross proceeds of sales of tangible
36 personal property and gross income from services.

37 H. If a person is engaged in the business of selling tangible personal
38 property at both wholesale and retail, the tax under this section applies
39 only to the gross proceeds of the sales made other than at wholesale if the
40 person's books are kept so as to show separately the gross proceeds of sales
41 of each class, and if the books are not so kept, the tax under this section
42 applies to the gross proceeds of every sale so made.

43 I. A person who engages in manufacturing, baling, crating, boxing,
44 barreling, canning, bottling, sacking, preserving, processing or otherwise
45 preparing for sale or commercial use any livestock, agricultural or

horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

M. In computing the tax base, gross proceeds of sales or gross income does not include:

1 1. A manufacturer's cash rebate on the sales price of a motor vehicle
2 if the buyer assigns the buyer's right in the rebate to the retailer.

3 2. The waste tire disposal fee imposed pursuant to section 44-1302.

4 N. There shall be deducted from the tax base the amount received from
5 sales of solar energy devices. The retailer shall register with the
6 department as a solar energy retailer. By registering, the retailer
7 acknowledges that it will make its books and records relating to sales of
8 solar energy devices available to the department for examination.

9 ~~O. In computing the tax base in the case of the sale or transfer of~~
10 ~~wireless telecommunications equipment as an inducement to a customer to enter~~
11 ~~into or continue a contract for telecommunications services that are taxable~~
12 ~~under section 42-5064, gross proceeds of sales or gross income does not~~
13 ~~include any sales commissions or other compensation received by the retailer~~
14 ~~as a result of the customer entering into or continuing a contract for the~~
15 ~~telecommunications services.~~

16 ~~P. For the purposes of this section, a sale of wireless~~
17 ~~telecommunications equipment to a person who holds the equipment for sale or~~
18 ~~transfer to a customer as an inducement to enter into or continue a contract~~
19 ~~for telecommunications services that are taxable under section 42-5064 is~~
20 ~~considered to be a sale for resale in the regular course of business.~~

21 ~~Q.~~ 0. Retail sales of prepaid calling cards or prepaid authorization
22 numbers for telecommunications services, including sales of reauthorization
23 of a prepaid card or authorization number, are subject to tax under this
24 section.

25 ~~R.~~ P. For the purposes of this section, the diversion of gas from a
26 pipeline by a person engaged in the business of:

27 1. Operating a natural or artificial gas pipeline, for the sole
28 purpose of fueling compressor equipment to pressurize the pipeline, is not a
29 sale of the gas to the operator of the pipeline.

30 2. Converting natural gas into liquefied natural gas, for the sole
31 purpose of fueling compressor equipment used in the conversion process, is
32 not a sale of gas to the operator of the compressor equipment.

33 ~~S. If a seller is entitled to a deduction pursuant to subsection B,~~
34 ~~paragraph 16, subdivision (b) of this section, the department may require the~~
35 ~~purchaser to establish that the requirements of subsection B, paragraph 16,~~
36 ~~subdivision (b) of this section have been satisfied. If the purchaser cannot~~
37 ~~establish that the requirements of subsection B, paragraph 16, subdivision~~
38 ~~(b) of this section have been satisfied, the purchaser is liable in an amount~~
39 ~~equal to any tax, penalty and interest which the seller would have been~~
40 ~~required to pay under article 1 of this chapter if the seller had not made a~~
41 ~~deduction pursuant to subsection B, paragraph 16, subdivision (b) of this~~
42 ~~section. Payment of the amount under this subsection exempts the purchaser~~
43 ~~from liability for any tax imposed under article 4 of this chapter and~~
44 ~~related to the tangible personal property purchased. The amount shall be~~
45 ~~treated as transaction privilege tax to the purchaser and as tax revenues~~

~~collected from the seller to designate the distribution base pursuant to section 42-5029.~~

Q. FEES CHARGED FOR THE INSTALLATION OF TANGIBLE PERSONAL PROPERTY BY THE SELLER OF THE PROPERTY ARE SUBJECT TO TAX UNDER THIS SECTION.

~~T.~~ **R.** For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

~~U.~~ **S.** In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

~~V.~~ **T.** For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

~~W.~~ **U.** For the purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

1 2. "Manufacturer" means a person who is principally engaged in the
2 fabrication, production or manufacture of products, wares or articles for use
3 from raw or prepared materials, imparting to those materials new forms,
4 qualities, properties and combinations.

5 3. "Modifier" means a person who reworks, changes or adds to products,
6 wares or articles of manufacture.

7 4. "Overhead materials" means tangible personal property, the gross
8 proceeds of sales or gross income derived from which would otherwise be
9 included in the retail classification, and which are used or consumed in the
10 performance of a contract, the cost of which is charged to an overhead
11 expense account and allocated to various contracts based upon generally
12 accepted accounting principles and consistent with government contract
13 accounting standards.

14 5. "Repairer" means a person who restores or renews products, wares or
15 articles of manufacture.

16 6. "Subcontract" means an agreement between a contractor and any
17 person who is not an employee of the contractor for furnishing of supplies or
18 services that, in whole or in part, are necessary to the performance of one
19 or more government contracts, or under which any portion of the contractor's
20 obligation under one or more government contracts is performed, undertaken or
21 assumed and that includes provisions causing title to overhead materials or
22 other tangible personal property used in the performance of the subcontract
23 to pass to the government or that includes provisions incorporating such
24 title passing clauses in a government contract into the subcontract.

25 Sec. 3. Section 42-5062, Arizona Revised Statutes, is amended to read:

26 42-5062. Transporting classification

27 A. The transporting classification is comprised of the business of
28 transporting for hire persons, freight or property by motor vehicle,
29 railroads or aircraft from one point to another point in this state. The
30 transporting classification does not include:

31 1. Transporting for hire persons, freight or property by motor
32 carriers subject to a fee prescribed in title 28, chapter 16, article 4 or by
33 light motor vehicles subject to a fee under title 28, chapter 15, article 4.

34 2. The business of transporting for hire persons traveling in air
35 commerce by aircraft if taxation of the business is preempted by federal law.

36 3. Ambulances or ambulance services provided under title 48 or
37 certified pursuant to title 36, chapter 21.1 or provided by a city or town in
38 a county with a population of less than one hundred fifty thousand persons as
39 determined in the most recent United States decennial census.

40 4. Public transportation program services for the dial-a-ride programs
41 and special needs transportation services.

42 ~~5. Transporting freight or property for hire by a railroad operating~~
43 ~~exclusively in this state if the transportation comprises a portion of a~~
44 ~~single shipment of freight or property, involving more than one railroad,~~
45 ~~either from a point in this state to a point outside this state or from a~~

~~point outside this state to a point in this state. For the purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.~~

~~6.~~ 5. Arranging transportation as a convenience or service to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

B. The tax base for the transporting classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

~~1. The gross proceeds of sales or gross income derived from transporting for hire persons, freight or property by a railroad pursuant to a contract with another railroad that is also considered to be engaged in the businesses of transporting persons, freight or property for hire if the other railroad is liable for the tax on gross proceeds of sales or gross income attributable to the transportation.~~

~~2.~~ 1. The gross proceeds of sales or gross income derived from business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

~~3.~~ 2. The gross proceeds of sales or gross income derived from a business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5073, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

~~4.~~ 3. The gross proceeds of sales or gross income derived from business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

~~5.~~ 4. The gross proceeds of sales or gross income derived from transporting fertilizer by a railroad from a point in this state to another point in this state.

1 Sec. 4. Section 42-5063, Arizona Revised Statutes, is amended to read:
2 42-5063. Utilities classification; definitions

3 A. The utilities classification is comprised of the business of:

4 1. Producing and furnishing or furnishing to consumers natural or
5 artificial gas and water.

6 2. Providing to retail electric customers ancillary services, electric
7 distribution services, electric generation services, electric transmission
8 services and other services related to providing electricity.

9 B. The ~~utility~~ UTILITIES classification does not include:—

10 ~~1. sales of ancillary services, electric distribution services,~~
11 ~~electric generation services, electric transmission services and other~~
12 ~~services related to providing electricity, gas or water to a person who~~
13 ~~resells the services.~~

14 ~~2. Sales of natural gas or liquefied petroleum gas used to propel a~~
15 ~~motor vehicle.~~

16 ~~3. Sales of alternative fuel, as defined in section 1-215, to a used~~
17 ~~oil fuel burner who has received a permit to burn used oil or used oil fuel~~
18 ~~under section 49-426 or 49-480.~~

19 ~~4. Sales of ancillary services, electric distribution services,~~
20 ~~electric generation services, electric transmission services and other~~
21 ~~services that are related to providing electricity to a retail electric~~
22 ~~customer who is located outside this state for use outside this state if the~~
23 ~~electricity is delivered to a point of sale outside this state.~~

24 C. The tax base for the utilities classification is the gross proceeds
25 of sales or gross income derived from the business, but the following shall
26 be deducted from the tax base:

27 1. Revenues received by a municipally owned utility in the form of
28 fees charged to persons constructing residential, commercial or industrial
29 developments or connecting residential, commercial or industrial developments
30 to a municipal utility system or systems if the fees are segregated and used
31 only for capital expansion, system enlargement or debt service of the utility
32 system or systems.

33 2. Revenues received by any person or persons owning a utility system
34 in the form of reimbursement or contribution compensation for property and
35 equipment installed to provide utility access to, on or across the land of an
36 actual utility consumer if the property and equipment become the property of
37 the utility. This deduction shall not exceed the value of such property and
38 equipment.

39 3. Gross proceeds of sales or gross income derived from sales to:

40 (a) Qualifying hospitals as defined in section 42-5001.

41 (b) A qualifying health care organization as defined in section
42 42-5001 if the tangible personal property is used by the organization solely
43 to provide health and medical related educational and charitable services.

44 4. The portion of gross proceeds of sales or gross income that is
45 derived from sales to ~~an~~ A QUALIFIED environmental technology manufacturer,

1 producer or processor as defined in section 41-1514.02 of a utility product
 2 and that is used directly in environmental technology manufacturing,
 3 producing or processing. This paragraph shall apply for fifteen full
 4 consecutive calendar or fiscal years from the date the first paper
 5 manufacturing machine is placed in service. In the case of ~~an~~ A QUALIFIED
 6 environmental technology manufacturer, producer or processor who does not
 7 manufacture paper, the time period shall begin with the date the first
 8 manufacturing, processing or production equipment is placed in service.

9 D. For THE purposes of this section:

10 1. "Ancillary services" means those services so designated in federal
 11 energy regulatory commission order 888 adopted in 1996 that include the
 12 services necessary to support the transmission of electricity from resources
 13 to loads while maintaining reliable operation of the transmission system
 14 according to good utility practice.

15 2. "Electric distribution service" means distributing electricity to
 16 retail electric customers through the use of electric distribution
 17 facilities.

18 3. "Electric generation service" means providing electricity for sale
 19 to retail electric customers but excluding electric distribution or
 20 transmission services.

21 4. "Electric transmission service" means transmitting electricity to
 22 retail electric customers or to electric distribution facilities so
 23 classified by the federal energy regulatory commission or, to the extent
 24 permitted by law, so classified by the Arizona corporation commission.

25 5. "Other services" includes metering, meter reading services, billing
 26 and collecting services.

27 6. "Retail electric customer" means a person who purchases electricity
 28 for that person's own use, including use in that person's trade or business
 29 and not for resale, redistribution or retransmission.

30 Sec. 5. Section 42-5064, Arizona Revised Statutes, is amended to read:

31 42-5064. Telecommunications classification: definitions

32 A. The telecommunications classification is comprised of the business
 33 of providing ~~intrastate~~ INTERSTATE telecommunications services. The
 34 telecommunications classification does not include:

35 ~~1. Sales of intrastate telecommunications services by a cable~~
 36 ~~television system as defined in section 9-505 or by a microwave television~~
 37 ~~transmission system that transmits television programming to multiple~~
 38 ~~subscribers and that is operated pursuant to 47 Code of Federal Regulations~~
 39 ~~parts 21 and 74.~~

40 ~~2.~~ sales of internet access or application services to the person's
 41 subscribers and customers. For the purposes of this ~~paragraph~~ SUBSECTION:

42 ~~(a)~~ 1. "Application services" means software applications provided
 43 remotely using hypertext transfer protocol or another network protocol and
 44 purchased by or for any school district, charter school, community college or

1 state university to assess or test student learning or to promote curriculum
2 design or enhancement.

3 ~~(b)~~ 2. "Curriculum design or enhancement" means planning,
4 implementing or reporting on courses of study, lessons, assignments or other
5 learning activities.

6 B. The tax base for the telecommunications classification is the gross
7 proceeds of sales or gross income derived from the business, including the
8 gross income derived from tolls, subscriptions and services on behalf of
9 subscribers or from the publication of a directory of the names of
10 subscribers. However, the gross proceeds of sales or gross income derived
11 from the following shall be deducted from the tax base:

12 1. Sales of ~~intrastate~~ INTERSTATE telecommunications services to ~~+~~
13 ~~(a)~~ other persons engaged in businesses classified under the
14 telecommunications classification for use in such business.

15 ~~(b) A direct broadcast satellite television or data transmission~~
16 ~~service that operates pursuant to 47 Code of Federal Regulations part 25 for~~
17 ~~use in its direct broadcast satellite television or data transmission~~
18 ~~operation by a facility described in section 42-5061, subsection B, paragraph~~
19 ~~16, subdivision (b).~~

20 ~~2. End user common line charges established by federal communications~~
21 ~~commission regulations (47 Code of Federal Regulations section 69.104(a)).~~

22 ~~3.~~ 2. Carrier access charges established by federal communications
23 commission regulations (47 Code of Federal Regulations sections 69.105(a)
24 through 69.118).

25 ~~4. Sales of direct broadcast satellite television services pursuant to~~
26 ~~47 Code of Federal Regulations part 25 by a direct broadcast satellite~~
27 ~~television service that operates pursuant to 47 Code of Federal Regulations~~
28 ~~part 25.~~

29 ~~5.~~ 3. Telecommunications services purchased with a prepaid calling
30 card, or a prepaid authorization number for telecommunications services, that
31 is taxable under section 42-5061.

32 C. A person that is engaged in a transient lodging business subject to
33 taxation under section 42-5070 and that provides telephone, fax or internet
34 access services to its customers at an additional charge, which is separately
35 stated on the customer invoice, is considered to be engaged in business
36 subject to taxation under this section for the purposes of taxing the gross
37 proceeds of sales or gross income derived from providing those services.

38 D. The gross proceeds of sales or gross income derived from a bundled
39 transaction of services that are taxable pursuant to section 42-5023 are
40 subject to the following:

41 1. A telecommunications service provider who can reasonably identify
42 the portion of the sales price of the bundled transaction derived from
43 charges for nontaxable services is subject to tax only on the gross proceeds
44 of sales or gross income derived from the taxable services. For the purposes
45 of this section, the telecommunications service provider may elect to

1 reasonably identify the portion of the sales price of the bundled transaction
 2 derived from charges for nontaxable services by using allocation percentages
 3 derived from the telecommunications service provider's entire service area,
 4 including territories outside of this state. On request, the department may
 5 require the telecommunications service provider to provide this allocation
 6 information. The reasonableness of the allocation is subject to audit by the
 7 department.

8 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the
 9 telecommunications service provider shall waive the right to file a claim for
 10 a refund of taxes paid on the bundled transaction if the taxes paid are based
 11 on the allocation percentage the telecommunications service provider had
 12 determined to be reasonable at the beginning of the tax period at issue.

13 3. The burden of proof is on the telecommunications service provider
 14 to establish that the gross proceeds of sales or gross income is derived from
 15 charges for nontaxable services.

16 E. For the purposes of this section:

17 1. "Bundled transaction" means a sale of multiple services in which
 18 both of the following apply:

19 (a) The sale consists of both taxable and nontaxable services.

20 (b) The telecommunications service provider charges a customer one
 21 sales price for all services that are sold instead of separately charging for
 22 each individual service.

23 2. "Internet" means the computer and telecommunications facilities
 24 that comprise the interconnected worldwide network of networks that employ
 25 the transmission control protocol or internet protocol, or any predecessor or
 26 successor protocol, to communicate information of all kinds by wire or radio.

27 3. "Internet access" means a service that enables users to access
 28 content, information, electronic mail or other services over the internet.
 29 Internet access does not include telecommunications services provided by a
 30 common carrier.

31 4. ~~"Intrastate~~ INTERSTATE telecommunications services" means
 32 transmitting signs, signals, writings, images, sounds, messages, data or
 33 other information of any nature by wire, radio waves, light waves or other
 34 electromagnetic means ~~if the information transmitted originates and~~
 35 ~~terminates in this state.~~

36 Sec. 6. Section 42-5067, Arizona Revised Statutes, is amended to read:
 37 42-5067. Pipeline classification

38 A. The pipeline classification is comprised of the business of
 39 operating pipelines for transporting oil or natural or artificial gas through
 40 pipes or conduits from one point to another point in this state. ~~The~~
 41 ~~pipeline classification does not include sales of natural gas or liquefied~~
 42 ~~petroleum gas used to propel a motor vehicle.~~

43 B. The tax base for the pipeline classification is the gross proceeds
 44 of sales or gross income derived from the business, but the taxpayer shall

1 deduct from the tax base the gross proceeds of sales or gross income derived
2 from pipeline services to:

3 1. Qualifying hospitals as defined in section 42-5001.

4 2. A qualifying health care organization as defined in section 42-5001
5 if the oil or gas is used by the organization solely to provide health and
6 medical related educational and charitable services.

7 Sec. 7. Section 42-5071, Arizona Revised Statutes, is amended to read:

8 42-5071. Personal property rental classification

9 A. The personal property rental classification is comprised of the
10 business of leasing or renting tangible personal property for a
11 consideration. The tax does not apply to:

12 1. Leasing or renting films, tapes or slides ~~used by theaters or~~
13 ~~movies, which are engaged in business under the amusement classification, or~~
14 used by television stations or radio stations.

15 2. Activities engaged in by the Arizona exposition and state fair
16 board or county fair commissions in connection with events sponsored by such
17 entities.

18 3. Leasing or renting tangible personal property by a parent
19 corporation to a subsidiary corporation or by a subsidiary corporation to
20 another subsidiary of the same parent corporation if taxes were paid under
21 this chapter on the gross proceeds or gross income accruing from the initial
22 sale of the tangible personal property. For the purposes of this paragraph,
23 "subsidiary" means a corporation of which at least eighty per cent of the
24 voting shares are owned by the parent corporation.

25 4. Operating coin operated washing, drying and dry cleaning machines
26 or coin operated car washing machines at establishments for the use of such
27 machines.

28 5. Leasing or renting tangible personal property for incorporation
29 into or comprising any part of a qualified environmental technology facility
30 as described in section 41-1514.02. This paragraph shall apply for ten full
31 consecutive calendar or fiscal years following the initial lease or rental by
32 each qualified environmental technology manufacturer, producer or processor.

33 6. Leasing or renting aircraft, flight simulators or similar training
34 equipment to students or staff by nonprofit, accredited educational
35 institutions that offer associate or baccalaureate degrees in aviation or
36 aerospace related fields.

37 7. Leasing or renting photographs, transparencies or other creative
38 works used by this state on internet web sites, in magazines or in other
39 publications that encourage tourism.

40 B. The tax base for the personal property rental classification is the
41 gross proceeds of sales or gross income derived from the business, but the
42 gross proceeds of sales or gross income derived from the following shall be
43 deducted from the tax base:

44 1. Reimbursements by the lessee to the lessor of a motor vehicle for
45 payments by the lessor of the applicable fees and taxes imposed by sections

28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article 2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property which, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:

(a) Section 42-5061, subsection A, paragraph ~~8, 9, 12, 13, 25, 29, 50 or 55~~ 6, 7, 10, 11, 22, 26 OR 44.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:

(i) Section 42-5061, subsection B, paragraph ~~13~~ 9 if the lease is for less than two years.

(ii) Section 42-5061, subsection B, paragraph ~~22~~ 16 if the lease is for less than five years.

(c) Section 42-5061, subsection J, paragraph 1.

(d) Section 42-5061, subsection N.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third party leasing company.

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

Sec. 8. Section 42-5073, Arizona Revised Statutes, is amended to read:

~~42-5073.~~ Amusement classification

A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or

1 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
 2 menageries, fairs, races, contests, games, billiard or pool parlors, bowling
 3 alleys, public dances, dance halls, boxing and wrestling matches, skating
 4 rinks, tennis courts, except as provided in subsection B of this section,
 5 video games, pinball machines, **SECONDARY, POSTSECONDARY AND INTERCOLLEGIATE**
 6 sports events or any other business charging admission or user fees for
 7 exhibition, amusement or entertainment, including the operation or
 8 sponsorship of events by a tourism and sports authority under title 5,
 9 chapter 8. For **THE** purposes of this section, admission or user fees include,
 10 but are not limited to, any revenues derived from any form of contractual
 11 agreement for rights to or use of premium or special seating facilities or
 12 arrangements. The amusement classification does not include:

13 1. Activities or projects of bona fide religious or educational
 14 institutions.

15 ~~2. Private or group instructional activities. For the purposes of~~
 16 ~~this paragraph, "private or group instructional activities" includes, but is~~
 17 ~~not limited to, performing arts, martial arts, gymnastics and aerobic~~
 18 ~~instruction.~~

19 ~~3.~~ 2. The operation or sponsorship of events by the Arizona
 20 exposition and state fair board or county fair commissions.

21 ~~4.~~ 3. A musical, dramatic or dance group or a botanical garden,
 22 museum or zoo that is qualified as a nonprofit charitable organization under
 23 section 501(c)(3) of the United States internal revenue code and if no part
 24 of its net income inures to the benefit of any private shareholder or
 25 individual.

26 ~~5. Exhibition events in this state sponsored, conducted or operated by~~
 27 ~~a nonprofit organization that is exempt from taxation under section~~
 28 ~~501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the~~
 29 ~~organization is associated with major league baseball teams or a national~~
 30 ~~touring professional golfing association and no part of the organization's~~
 31 ~~net earnings inures to the benefit of any private shareholder or individual.~~

32 ~~6.~~ 4. Operating or sponsoring rodeos that feature primarily farm and
 33 ranch animals in this state and that are sponsored, conducted or operated by
 34 a nonprofit organization that is exempt from taxation under section
 35 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
 36 revenue code and no part of the organization's net earnings inures to the
 37 benefit of any private shareholder or individual.

38 ~~7. Sales of admissions to intercollegiate football contests if the~~
 39 ~~contests are both:~~

40 ~~(a) Operated by a nonprofit organization that is exempt from taxation~~
 41 ~~under section 501(c)(3) of the internal revenue code and no part of the~~
 42 ~~organization's net earnings inures to the benefit of any private shareholder~~
 43 ~~or individual.~~

44 ~~(b) Not held in a multipurpose facility that is owned or operated by~~
 45 ~~the tourism and sports authority pursuant to title 5, chapter 8.~~

1 ~~8-~~ 5. Activities and events of, or fees and assessments received by,
 2 a homeowners organization from persons who are members of the organization or
 3 accompanied guests of members. For the purposes of this paragraph,
 4 "homeowners organization" means a mandatory membership organization comprised
 5 of owners of residential property within a specified residential real estate
 6 subdivision development or similar area and established to own property for
 7 the benefit of its members where both of the following apply:

8 (a) No part of the organization's net earnings inures to the benefit
 9 of any private shareholder or individual.

10 (b) The primary purpose of the organization is to provide for the
 11 acquisition, construction, management, maintenance or care of organization
 12 property.

13 ~~9-~~ 6. Activities and events of, or fees received by, a nonprofit
 14 organization that is exempt from taxation under section 501(c)(6) of the
 15 internal revenue code if the organization produces, organizes or promotes
 16 cultural or civic related festivals or events and no part of the
 17 organization's net earnings inures to the benefit of any private shareholder
 18 or individual.

19 ~~10-~~ 7. Arranging an amusement activity as a service to a person's
 20 customers if that person is not otherwise engaged in the business of
 21 operating or conducting an amusement ~~themselves~~ PERSONALLY or through others.
 22 This exception does not apply to businesses that operate or conduct
 23 amusements pursuant to customer orders and send the billings and receive the
 24 payments associated with that activity, including when the amusement is
 25 performed by third party independent contractors. For the purposes of this
 26 paragraph, "arranging" includes billing for or collecting amusement charges
 27 from a person's customers on behalf of the persons providing the amusement.

28 B. The tax base for the amusement classification is the gross proceeds
 29 of sales or gross income derived from the business, except that the following
 30 shall be deducted from the tax base:

31 ~~1. The gross proceeds of sales or gross income derived from~~
 32 ~~memberships, including initiation fees, which provide for the right to use a~~
 33 ~~health or fitness establishment or a private recreational establishment, or~~
 34 ~~any portion of an establishment, including tennis and other racquet courts at~~
 35 ~~that establishment, for participatory purposes for twenty-eight days or more~~
 36 ~~and fees charged for use of the health or fitness establishment or private~~
 37 ~~recreational establishment by bona fide accompanied guests of members, except~~
 38 ~~that this paragraph does not include additional fees, other than initiation~~
 39 ~~fees, charged by a health or fitness establishment or a private recreational~~
 40 ~~establishment for purposes other than memberships which provide for the right~~
 41 ~~to use a health or fitness establishment or private recreational~~
 42 ~~establishment, or any portion of an establishment, for participatory purposes~~
 43 ~~for twenty-eight days or more and accompanied guest use fees.~~

1 ~~2.~~ 1. Amounts that are exempt under section 5-111, subsection H.

2 ~~3.~~ 2. The gross proceeds of sales or gross income derived from
3 membership fees, including initiation fees, that provide for the right to use
4 a transient lodging recreational establishment, including golf courses and
5 tennis and other racquet courts at that establishment, for participatory
6 purposes for twenty-eight days or more, except that this paragraph does not
7 include additional fees, other than initiation fees, that are charged by a
8 transient lodging recreational establishment for purposes other than
9 memberships and that provide for the right to use a transient lodging
10 recreational establishment or any portion of the establishment for
11 participatory purposes for twenty-eight days or more.

12 ~~4.~~ 3. The gross proceeds of sales or gross income derived from sales
13 to persons engaged in the business of transient lodging classified under
14 section 42-5070, if all of the following apply:

15 (a) The persons who are engaged in the transient lodging business sell
16 the amusement to another person for consideration.

17 (b) The consideration received by the transient lodging business is
18 equal to or greater than the amount to be deducted under this subsection.

19 (c) The transient lodging business has provided an exemption
20 certificate to the person engaging in business under this section.

21 ~~5.~~ 4. The gross proceeds of sales or gross income derived from:

22 (a) Business activity that is properly included in any other business
23 classification under this article and that is taxable to the person engaged
24 in that classification, but the gross proceeds of sales or gross income to be
25 deducted shall not exceed the consideration paid to the person conducting the
26 activity.

27 (b) Business activity that is arranged by the person who is subject to
28 tax under this section and that is not taxable to the person conducting the
29 activity due to an exclusion, exemption or deduction under this section or
30 section 42-5062, but the gross proceeds of sales or gross income to be
31 deducted shall not exceed the consideration paid to the person conducting the
32 activity.

33 (c) Business activity that is arranged by a person who is subject to
34 tax under this section and that is taxable to another person under this
35 section who conducts the activity, but the gross proceeds of sales or gross
36 income to be deducted shall not exceed the consideration paid to the person
37 conducting the activity.

38 C. For the purposes of subsection B of this section, ~~±~~

39 ~~1. "Health or fitness establishment" means a facility whose primary~~
40 ~~purpose is to provide facilities, equipment, instruction or education to~~
41 ~~promote the health and fitness of its members and at least eighty per cent of~~
42 ~~the monthly gross revenue of the facility is received through accounts of~~
43 ~~memberships and accompanied guest use fees which provide for the right to use~~
44 ~~the facility, or any portion of the facility, under the terms of the~~

~~membership agreement for participatory purposes for twenty eight days or more.~~

~~2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty per cent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty eight days or more.~~

3. "transient lodging recreational establishment" means a facility whose primary purpose is to provide facilities for transient lodging, that is subject to taxation under this chapter and that also provides recreational facilities, such as tennis, golf and swimming, for members for a period of twenty-eight days or more.

D. Until December 31, 1988, the revenues from hayrides and other animal-drawn amusement rides, from horseback riding and riding instruction and from recreational tours using motor vehicles designed to operate on and off public highways are exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from hayrides and other animal-drawn amusement rides, from horseback riding and from recreational tours using motor vehicles designed to operate on and off public highways are subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the taxes will be returned to the customer.

E. If a person is engaged in the business of offering both exhibition, amusement or entertainment and private or group instructional activities, the person's books shall be kept to show separately the gross income from exhibition, amusement or entertainment and the gross income from instructional activities. If the books do not provide this separate accounting, the tax is imposed on the person's total gross income from the business.

F. The department shall separately account for revenues collected under the amusement classification for purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

G. For purposes of section 42-5032.01, the department shall separately account for revenues collected under the amusement classification from sales of admissions to:

1. Events that are held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8, including intercollegiate football contests that are operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code.

1 2. Professional football contests that are held in a stadium located
2 on the campus of an institution under the jurisdiction of the Arizona board
3 of regents.

4 Sec. 9. Section 42-5075, Arizona Revised Statutes, is amended to read:

5 42-5075. Prime contracting classification; exemptions;
6 definitions

7 A. The prime contracting classification is comprised of the business
8 of prime contracting and dealership of manufactured buildings. Sales for
9 resale to another dealership of manufactured buildings are not subject to
10 tax. Sales for resale do not include sales to a lessor of manufactured
11 buildings. The sale of a used manufactured building is not taxable under
12 this chapter. The proceeds from alteration and repairs to a used
13 manufactured building are taxable under this section.

14 B. The tax base for the prime contracting classification is sixty-five
15 per cent of the gross proceeds of sales or gross income derived from the
16 business. The following amounts shall be deducted from the gross proceeds of
17 sales or gross income before computing the tax base:

18 1. The sales price of land, which shall not exceed the fair market
19 value.

20 2. Sales and installation of groundwater measuring devices required
21 under section 45-604 and groundwater monitoring wells required by law,
22 including monitoring wells installed for acquiring information for a permit
23 required by law.

24 3. The sales price of furniture, furnishings, fixtures, appliances and
25 attachments that are not incorporated as component parts of or attached to a
26 manufactured building or the setup site. The sale of such items may be
27 subject to the taxes imposed by article 1 of this chapter separately and
28 distinctly from the sale of the manufactured building.

29 4. The gross proceeds of sales or gross income received from a
30 contract entered into for the construction, alteration, repair, addition,
31 subtraction, improvement, movement, wrecking or demolition of any building,
32 highway, road, railroad, excavation, manufactured building or other
33 structure, project, development or improvement located in a military reuse
34 zone for providing aviation or aerospace services or for a manufacturer,
35 assembler or fabricator of aviation or aerospace products within an active
36 military reuse zone after the zone is initially established or renewed under
37 section 41-1531. To be eligible to qualify for this deduction, before
38 beginning work under the contract, the prime contractor must have applied for
39 a letter of qualification from the department of revenue.

40 5. The gross proceeds of sales or gross income derived from a contract
41 to construct a qualified environmental technology manufacturing, producing or
42 processing facility, as described in section 41-1514.02, and from subsequent
43 construction and installation contracts that begin within ten years after the
44 start of initial construction. To qualify for this deduction, before
45 beginning work under the contract, the prime contractor must obtain a letter

1 of qualification from the department of revenue. This paragraph shall apply
2 for ten full consecutive calendar or fiscal years after the start of initial
3 construction.

4 ~~6. The gross proceeds of sales or gross income from a contract to~~
5 ~~provide for one or more of the following actions, or a contract for site~~
6 ~~preparation, constructing, furnishing or installing machinery, equipment or~~
7 ~~other tangible personal property, including structures necessary to protect~~
8 ~~exempt incorporated materials or installed machinery or equipment, and~~
9 ~~tangible personal property incorporated into the project, to perform one or~~
10 ~~more of the following actions in response to a release or suspected release~~
11 ~~of a hazardous substance, pollutant or contaminant from a facility to the~~
12 ~~environment, unless the release was authorized by a permit issued by a~~
13 ~~governmental authority.~~

14 ~~(a) Actions to monitor, assess and evaluate such a release or a~~
15 ~~suspected release.~~

16 ~~(b) Excavation, removal and transportation of contaminated soil and~~
17 ~~its treatment or disposal.~~

18 ~~(c) Treatment of contaminated soil by vapor extraction, chemical or~~
19 ~~physical stabilization, soil washing or biological treatment to reduce the~~
20 ~~concentration, toxicity or mobility of a contaminant.~~

21 ~~(d) Pumping and treatment or in situ treatment of contaminated~~
22 ~~groundwater or surface water to reduce the concentration or toxicity of a~~
23 ~~contaminant.~~

24 ~~(e) The installation of structures, such as cutoff walls or caps, to~~
25 ~~contain contaminants present in groundwater or soil and prevent them from~~
26 ~~reaching a location where they could threaten human health or welfare or the~~
27 ~~environment.~~

28 ~~This paragraph does not include asbestos removal or the construction or use~~
29 ~~of ancillary structures such as maintenance sheds, offices or storage~~
30 ~~facilities for unattached equipment, pollution control equipment, facilities~~
31 ~~or other control items required or to be used by a person to prevent or~~
32 ~~control contamination before it reaches the environment.~~

33 ~~7.~~ 6. The gross proceeds of sales or gross income that is derived
34 from a contract entered into for the installation, assembly, repair or
35 maintenance of machinery, equipment or other tangible personal property that
36 is deducted from the tax base of the retail classification pursuant to
37 section 42-5061, subsection B, or that is exempt from use tax pursuant to
38 section 42-5159, subsection B, and that does not become a permanent
39 attachment to a building, highway, road, railroad, excavation or manufactured
40 building or other structure, project, development or improvement. If the
41 ownership of the realty is separate from the ownership of the machinery,
42 equipment or tangible personal property, the determination as to permanent
43 attachment shall be made as if the ownership were the same. The deduction
44 provided in this paragraph does not include gross proceeds of sales or gross
45 income from that portion of any contracting activity which consists of the

development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B or that is exempt from use tax pursuant to section 42-5159, subsection B. For the purposes of this paragraph, "permanent attachment" means at least one of the following:

- (a) To be incorporated into real property.
- (b) To become so affixed to real property that it becomes a part of the real property.
- (c) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

~~8-~~ 7. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to section 9-499.08 if the prime contractor maintains the following records in a form satisfactory to the department and to the city or town in which the property is located:

- (a) The certificate of qualification of the lake facility development issued by the city or town pursuant to section 9-499.08, subsection D.
- (b) All state and local transaction privilege tax returns for the period of time during which the prime contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.
- (c) Any other information that the department considers to be necessary.

~~9-~~ 8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

- (a) Section 42-5061, subsection A, paragraph ~~25~~ 22 or ~~29~~ 26.
- (b) Section 42-5061, subsection B.
- (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (i), (j) or (l).
- (d) Section 42-5159, subsection B.

~~10-~~ 9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

~~11-~~ 10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road,

1 excavation, manufactured building or other structure, project, development or
2 improvement used directly and primarily to prevent, monitor, control or
3 reduce air, water or land pollution.

4 ~~12.~~ 11. The gross proceeds of sales or gross income that is derived
5 from the installation, assembly, repair or maintenance of clean rooms that
6 are deducted from the tax base of the retail classification pursuant to
7 section 42-5061, subsection B, paragraph ~~17~~ 12.

8 ~~13.~~ 12. For taxable periods beginning from and after June 30, 2001,
9 the gross proceeds of sales or gross income derived from a contract entered
10 into for the construction of a residential apartment housing facility that
11 qualifies for a federal housing subsidy for low income persons over sixty-two
12 years of age and that is owned by a nonprofit charitable organization that
13 has qualified under section 501(c)(3) of the internal revenue code.

14 ~~14.~~ 13. For taxable periods beginning from and after December 31, 1996
15 and ending before January 1, 2011, the gross proceeds of sales or gross
16 income derived from a contract to provide and install a solar energy device.
17 The contractor shall register with the department as a solar energy
18 contractor. By registering, the contractor acknowledges that it will make its
19 books and records relating to sales of solar energy devices available to the
20 department for examination.

21 ~~15.~~ 14. The gross proceeds of sales or gross income derived from a
22 contract entered into for the construction of a launch site, as defined in 14
23 Code of Federal Regulations section 401.5.

24 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
25 contract entered into for the construction of a domestic violence shelter
26 that is owned and operated by a nonprofit charitable organization that has
27 qualified under section 501(c)(3) of the internal revenue code.

28 ~~17.~~ 16. The gross proceeds of sales or gross income derived from
29 contracts to perform postconstruction treatment of real property for termite
30 and general pest control, including wood destroying organisms.

31 ~~18.~~ 17. The gross proceeds of sales or gross income received from
32 contracts entered into before July 1, 2006 for constructing a state
33 university research infrastructure project if the project has been reviewed
34 by the joint committee on capital review before the university enters into
35 the construction contract for the project. For the purposes of this
36 paragraph, "research infrastructure" has the same meaning prescribed in
37 section 15-1670.

38 ~~19.~~ 18. The gross proceeds of sales or gross income received from a
39 contract for the construction of any building, or other structure, project,
40 development or improvement owned by a qualified business under section
41 41-1516 for harvesting or the initial processing of qualifying forest
42 products removed from qualifying projects as defined in section 41-1516 if
43 actual construction begins before January 1, 2010. To qualify for this
44 deduction, the prime contractor must obtain a letter of qualification from
45 the department of commerce before beginning work under the contract.

~~20-~~ 19. The gross proceeds of sales or gross income received from a contract for the construction of any building or other structure associated with motion picture production in this state. To qualify for the deduction, at the time the contract is entered into the motion picture production company must present to the prime contractor its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

~~21-~~ 20. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

C. Entitlement to the deduction pursuant to subsection B, paragraph ~~7-~~ 6 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is

1 not entitled to rely solely on the information contained in the certificate
2 provided in paragraph 1, subdivision (b) of this subsection but must instead
3 obtain such additional information as required in order to be entitled to the
4 deduction.

5 4. If a prime contractor is entitled to a deduction by complying with
6 paragraph 1 of this subsection, the department may require the purchaser who
7 caused the execution of the certificate to establish the accuracy and
8 completeness of the information required to be contained in the certificate
9 which would entitle the prime contractor to the deduction. If the purchaser
10 cannot establish the accuracy and completeness of the information, the
11 purchaser is liable in an amount equal to any tax, penalty and interest which
12 the prime contractor would have been required to pay under article 1 of this
13 chapter if the prime contractor had not complied with paragraph 1 of this
14 subsection. Payment of the amount under this paragraph exempts the purchaser
15 from liability for any tax imposed under article 4 of this chapter. The
16 amount shall be treated as a transaction privilege tax to the purchaser and
17 as tax revenues collected from the prime contractor in order to designate the
18 distribution base for purposes of section 42-5029.

19 D. Subcontractors or others who perform services in respect to any
20 improvement, building, highway, road, railroad, excavation, manufactured
21 building or other structure, project, development or improvement are not
22 subject to tax if they can demonstrate that the job was within the control of
23 a prime contractor or contractors or a dealership of manufactured buildings
24 and that the prime contractor or dealership is liable for the tax on the
25 gross income, gross proceeds of sales or gross receipts attributable to the
26 job and from which the subcontractors or others were paid.

27 E. Amounts received by a contractor for a project are excluded from
28 the contractor's gross proceeds of sales or gross income derived from the
29 business if the person who hired the contractor executes and provides a
30 certificate to the contractor stating that the person providing the
31 certificate is a prime contractor and is liable for the tax under article 1
32 of this chapter. The department shall prescribe the form of the certificate.
33 If the contractor has reason to believe that the information contained on the
34 certificate is erroneous or incomplete, the department may disregard the
35 certificate. If the person who provides the certificate is not liable for
36 the tax as a prime contractor, that person is nevertheless deemed to be the
37 prime contractor in lieu of the contractor and is subject to the tax under
38 this section on the gross receipts or gross proceeds received by the
39 contractor.

40 F. Every person engaging or continuing in this state in the business
41 of prime contracting or dealership of manufactured buildings shall present to
42 the purchaser of such prime contracting or manufactured building a written
43 receipt of the gross income or gross proceeds of sales from such activity and
44 shall separately state the taxes to be paid pursuant to this section.

1 G. For the purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the prime contracting
3 classification from any prime contractor engaged in the preparation or
4 construction of a multipurpose facility, and related infrastructure, that is
5 owned, operated or leased by the tourism and sports authority pursuant to
6 title 5, chapter 8.

7 H. The gross proceeds of sales or gross income derived from a contract
8 for lawn maintenance services are not subject to tax under this section if
9 the contract does not include landscaping activities. Lawn maintenance
10 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
11 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
12 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
13 lawn de-thatching, seeding winter lawns, leaf and debris collection and
14 removal, tree or shrub pruning or clipping, garden and gravel raking and
15 applying pesticides, as defined in section 3-361, and fertilizer materials,
16 as defined in section 3-262.

17 I. The gross proceeds of sales or gross income derived from
18 landscaping activities are subject to tax under this section. Landscaping
19 includes installing lawns, grading or leveling ground, installing gravel or
20 boulders, planting trees and other plants, felling trees, removing or
21 mulching tree stumps, removing other imbedded plants, building or modifying
22 irrigation berms, repairing sprinkler or watering systems, installing
23 railroad ties and installing underground sprinkler or watering systems.

24 J. The portion of gross proceeds of sales or gross income attributable
25 to the actual direct costs of providing architectural or engineering services
26 that are incorporated in a contract is not subject to tax under this section.
27 For the purposes of this subsection, "direct costs" means the portion of the
28 actual costs that are directly expended in providing architectural or
29 engineering services.

30 K. Operating a landfill or a solid waste disposal facility is not
31 subject to taxation under this section, including filling, compacting and
32 creating vehicle access to and from cell sites within the landfill.
33 Constructing roads to a landfill or solid waste disposal facility and
34 constructing cells within a landfill or solid waste disposal facility may be
35 deemed prime contracting under this section.

36 L. The following apply to manufactured buildings:

37 1. For sales in this state where the dealership of manufactured
38 buildings contracts to deliver the building to a setup site or to perform the
39 setup in this state, the taxable situs is the setup site.

40 2. For sales in this state where the dealership of manufactured
41 buildings does not contract to deliver the building to a setup site or does
42 not perform the setup, the taxable situs is the location of the dealership
43 where the building is delivered to the buyer.

44 3. For sales in this state where the dealership of manufactured
45 buildings contracts to deliver the building to a setup site that is outside

1 this state, the situs is outside this state and the transaction is excluded
2 from tax.

3 M. The gross proceeds of sales or gross income attributable to a
4 separate, written design phase services contract or professional services
5 contract, executed before modification begins, is not subject to tax under
6 this section, regardless of whether the services are provided sequential to
7 or concurrent with prime contracting activities that are subject to tax under
8 this section. This subsection does not include the gross proceeds of sales
9 or gross income attributable to construction phase services. For the
10 purposes of this subsection:

11 1. "Construction phase services" means services for the execution and
12 completion of any modification, including the following:

13 (a) Administration or supervision of any modification performed on the
14 project, including team management and coordination, scheduling, cost
15 controls, submittal process management, field management, safety program,
16 close-out process and warranty period services.

17 (b) Administration or supervision of any modification performed
18 pursuant to a punch list. For the purposes of this subdivision, "punch list"
19 means minor items of modification work performed after substantial completion
20 and before final completion of the project.

21 (c) Administration or supervision of any modification performed
22 pursuant to change orders. For the purposes of this subdivision, "change
23 order" means a written instrument issued after execution of a contract for
24 modification work, providing for all of the following:

25 (i) The scope of a change in the modification work, contract for
26 modification work or other contract documents.

27 (ii) The amount of an adjustment, if any, to the guaranteed maximum
28 price as set in the contract for modification work. For the purposes of this
29 item, "guaranteed maximum price" means the amount guaranteed to be the
30 maximum amount due to a prime contractor for the performance of all
31 modification work for the project.

32 (iii) The extent of an adjustment, if any, to the contract time of
33 performance set forth in the contract.

34 (d) Administration or supervision of any modification performed
35 pursuant to change directives. For the purposes of this subdivision, "change
36 directive" means a written order directing a change in modification work
37 before agreement on an adjustment of the guaranteed maximum price or contract
38 time.

39 (e) Inspection to determine the dates of substantial completion or
40 final completion.

41 (f) Preparation of any manuals, warranties, as-built drawings, spares
42 or other items the prime contractor must furnish pursuant to the contract for
43 modification work. For the purposes of this subdivision, "as-built drawing"
44 means a drawing that indicates field changes made to adapt to field

1 conditions, field changes resulting from change orders or buried and
2 concealed installation of piping, conduit and utility services.

3 (g) Preparation of status reports after modification work has begun
4 detailing the progress of work performed, including preparation of any of the
5 following:

6 (i) Master schedule updates.

7 (ii) Modification work cash flow projection updates.

8 (iii) Site reports made on a periodic basis.

9 (iv) Identification of discrepancies, conflicts or ambiguities in
10 modification work documents that require resolution.

11 (v) Identification of any health and safety issues that have arisen in
12 connection with the modification work.

13 (h) Preparation of daily logs of modification work, including
14 documentation of personnel, weather conditions and on-site occurrences.

15 (i) Preparation of any submittals or shop drawings used by the prime
16 contractor to illustrate details of the modification work performed.

17 (j) Administration or supervision of any other activities for which a
18 prime contractor receives a certificate for payment or certificate for final
19 payment based on the progress of modification work performed on the project.

20 2. "Design phase services" means services for developing and
21 completing a design for a project that are not construction phase services,
22 including the following:

23 (a) Evaluating surveys, reports, test results or any other information
24 on-site conditions for the project, including physical characteristics, legal
25 limitations and utility locations for the site.

26 (b) Evaluating any criteria or programming objectives for the project
27 to ascertain requirements for the project, such as physical requirements
28 affecting cost or projected utilization of the project.

29 (c) Preparing drawings and specifications for architectural program
30 documents, schematic design documents, design development documents,
31 modification work documents or documents that identify the scope of or
32 materials for the project.

33 (d) Preparing an initial schedule for the project, excluding the
34 preparation of updates to the master schedule after modification work has
35 begun.

36 (e) Preparing preliminary estimates of costs of modification work
37 before completion of the final design of the project, including an estimate
38 or schedule of values for any of the following:

39 (i) Labor, materials, machinery and equipment, tools, water, heat,
40 utilities, transportation and other facilities and services used in the
41 execution and completion of modification work, regardless of whether they are
42 temporary or permanent or whether they are incorporated in the
43 modifications.

44 (ii) The cost of labor and materials to be furnished by the owner of
45 the real property.

1 (iii) The cost of any equipment of the owner of the real property to
2 be assigned by the owner to the prime contractor.

3 (iv) The cost of any labor for installation of equipment separately
4 provided by the owner of the real property that has been designed, specified,
5 selected or specifically provided for in any design document for the project.

6 (v) Any fee paid by the owner of the real property to the prime
7 contractor pursuant to the contract for modification work.

8 (vi) Any bond and insurance premiums.

9 (vii) Any applicable taxes.

10 (viii) Any contingency fees for the prime contractor that may be used
11 before final completion of the project.

12 (f) Reviewing and evaluating cost estimates and project documents to
13 prepare recommendations on site use, site improvements, selection of
14 materials, building systems and equipment, modification feasibility,
15 availability of materials and labor, local modification activity as related
16 to schedules and time requirements for modification work.

17 (g) Preparing the plan and procedures for selection of subcontractors,
18 including any prequalification of subcontractor candidates.

19 3. "Professional services" means architect services, assayer services,
20 engineer services, geologist services, land surveying services or landscape
21 architect services that are within the scope of those services as provided in
22 title 32, chapter 1 and for which gross proceeds of sales or gross income has
23 not otherwise been deducted under subsection J of this section.

24 N. Notwithstanding subsection 0, paragraph 8 of this section, a person
25 owning real property who enters into a contract for sale of the real
26 property, who is responsible to the new owner of the property for
27 modifications made to the property in the period subsequent to the transfer
28 of title and who receives a consideration for the modifications is considered
29 a prime contractor solely for purposes of taxing the gross proceeds of sale
30 or gross income received for the modifications made subsequent to the
31 transfer of title. The original owner's gross proceeds of sale or gross
32 income received for the modifications shall be determined according to the
33 following methodology:

34 1. If any part of the contract for sale of the property specifies
35 amounts to be paid to the original owner for the modifications to be made in
36 the period subsequent to the transfer of title, the amounts are included in
37 the original owner's gross proceeds of sale or gross income under this
38 section. Proceeds from the sale of the property that are received after
39 transfer of title and that are unrelated to the modifications made subsequent
40 to the transfer of title are not considered gross proceeds of sale or gross
41 income from the modifications.

42 2. If the original owner enters into an agreement separate from the
43 contract for sale of the real property providing for amounts to be paid to
44 the original owner for the modifications to be made in the period subsequent
45 to the transfer of title to the property, the amounts are included in the

1 original owner's gross proceeds of sale or gross income received for the
2 modifications made subsequent to the transfer of title.

3 3. If the original owner is responsible to the new owner for
4 modifications made to the property in the period subsequent to the transfer
5 of title and derives any gross proceeds of sale or gross income from the
6 project subsequent to the transfer of title other than a delayed disbursement
7 from escrow unrelated to the modifications, it is presumed that the amounts
8 are received for the modifications made subsequent to the transfer of title
9 unless the contrary is established by the owner through its books, records
10 and papers kept in the regular course of business.

11 4. The tax base of the original owner is computed in the same manner
12 as a prime contractor under this section.

13 0. For the purposes of this section:

14 1. "Contracting" means engaging in business as a contractor.

15 2. "Contractor" is synonymous with the term "builder" and means any
16 person or organization that undertakes to or offers to undertake to, or
17 purports to have the capacity to undertake to, or submits a bid to, or does
18 personally or by or through others, modify any building, highway, road,
19 railroad, excavation, manufactured building or other structure, project,
20 development or improvement, or to do any part of such a project, including
21 the erection of scaffolding or other structure or works in connection with
22 such a project, and includes subcontractors and specialty contractors. For
23 all purposes of taxation or deduction, this definition shall govern without
24 regard to whether or not such contractor is acting in fulfillment of a
25 contract.

26 3. "Dealership of manufactured buildings" means a dealer who either:

27 (a) Is licensed pursuant to title 41, chapter 16 and who sells
28 manufactured buildings to the final consumer.

29 (b) Supervises, performs or coordinates the excavation and completion
30 of site improvements, setup or moving of a manufactured building including
31 the contracting, if any, with any subcontractor or specialty contractor for
32 the completion of the contract.

33 4. "Manufactured building" means a manufactured home, mobile home or
34 factory-built building, as defined in section 41-2142.

35 5. "Modification" means construction, alteration, repair, addition,
36 subtraction, improvement, movement, wreckage or demolition.

37 6. "Modify" means to construct, alter, repair, add to, subtract from,
38 improve, move, wreck or demolish.

39 7. "Prime contracting" means engaging in business as a prime
40 contractor.

41 8. "Prime contractor" means a contractor who supervises, performs or
42 coordinates the modification of any building, highway, road, railroad,
43 excavation, manufactured building or other structure, project, development or
44 improvement including the contracting, if any, with any subcontractors or
45 specialty contractors and who is responsible for the completion of the

1 contract. Except as provided in subsections E and ~~M~~ N of this section, a
2 person who owns real property, who engages one or more contractors to modify
3 that real property and who does not itself modify that real property is not a
4 prime contractor within the meaning of this paragraph regardless of the
5 existence of a contract for sale or the subsequent sale of that real
6 property.

7 9. "Sale of a used manufactured building" does not include a lease of
8 a used manufactured building.

9 Sec. 10. Title 42, chapter 5, article 2, Arizona Revised Statutes, is
10 amended by adding section 42-5077, to read:

11 42-5077. Services classification; exemption

12 A. THE SERVICES CLASSIFICATION INCLUDES THE FOLLOWING BUSINESSES, NOT
13 OTHERWISE CLASSIFIED FOR TAXATION UNDER THIS ARTICLE:

14 1. PERSONAL SERVICES, INCLUDING PHOTOGRAPHIC STUDIOS AND MESSAGE
15 SERVICES.

16 2. DATING AND ESCORT SERVICES.

17 3. BUSINESS SERVICES, INCLUDING CREDIT REPORTING AND COLLECTION
18 SERVICES, COMMERCIAL ART AND GRAPHIC DESIGN SERVICES, COMPUTER AND DATA
19 PROCESSING SERVICES, ADVERTISING AGENCY SERVICES AND DETECTIVE, PRIVATE
20 INVESTIGATOR, ARMORED CAR AND SECURITY GUARD SERVICES.

21 4. AUTOMOTIVE SERVICES, INCLUDING PAINTING, TIRE RECAPPING AND REPAIR,
22 OIL REPLACEMENT, WASHING, DETAILING AND UPHOLSTERY REPAIR SERVICES.

23 5. HUNTING AND FISHING GUIDE SERVICES.

24 6. GARMENT SERVICES, INCLUDING ALTERING AND REPAIR SERVICES.

25 7. INTERIOR DESIGN SERVICES.

26 8. TELEPHONE SERVICES, INCLUDING TELEPHONE ANSWERING AND TELEMARKETING
27 SERVICES.

28 9. CARPET AND UPHOLSTERY CLEANING SERVICES.

29 10. LEGAL SERVICES, INCLUDING PRIVATE ARBITRATION SERVICES.

30 11. ENGINEERING AND MANAGEMENT SERVICES, INCLUDING ARCHITECTURAL,
31 SURVEYING, ACCOUNTING, AUDITING, BOOKKEEPING, RESEARCH, MARKETING, POLLING,
32 TESTING AND PUBLIC RELATIONS SERVICES.

33 12. DWELLING AND BUILDING SERVICES, INCLUDING PEST CONTROL, FUMIGATION,
34 BUILDING MAINTENANCE, PAINTING, REPAIR, JANITORIAL, CLEANING AND MAID
35 SERVICES.

36 13. PET GROOMING SERVICES.

37 14. MANAGEMENT CONSULTING SERVICES.

38 15. ENVIRONMENTAL CONSULTING SERVICES.

39 16. SCIENTIFIC AND TECHNICAL CONSULTING SERVICES.

40 17. LABORATORY AND FACILITY TESTING SERVICES.

41 18. LINEN AND UNIFORM SUPPLY SERVICES.

42 19. DIET REDUCTION SERVICES.

43 20. INDUSTRIAL SEWER AND REFUSE SERVICES.

44 21. GIFT AND PACKAGE WRAPPING SERVICES.

22. HEALTH CLUB SERVICES, INCLUDING TANNING PARLOR AND REDUCING SALON SERVICES.

23. SWIMMING POOL SERVICES, INCLUDING CLEANING AND MAINTENANCE SERVICES.

24. WATER SOFTENING AND CONDITIONING SERVICES.

25. WINDOW CLEANING SERVICES.

26. COMPUTER SERVICES, INCLUDING SOFTWARE PROGRAMMING AND MATERIAL PREPARATION, MAINFRAME COMPUTER ACCESS AND PROCESSING SERVICES.

27. CABLE TELEVISION SERVICES.

28. CHARTERED FLIGHT SERVICES.

29. TAXIDERMY SERVICES.

30. INSTALLATION SERVICES.

B. THE TAX BASE FOR THE SERVICES CLASSIFICATION IS THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS, EXCEPT THAT THE TAXPAYERS CLASSIFIED UNDER SUBSECTION A, PARAGRAPH 10 SHALL DEDUCT FROM THE TAX BASE UP TO TWENTY THOUSAND DOLLARS RECEIVED FROM EACH CLIENT PER CALENDAR YEAR.

Sec. 11. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property which directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel which is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use

1 of which in this state is subject to the tax imposed under article 8 of this
2 chapter.

3 6. Tangible personal property brought into this state by an individual
4 who was a nonresident at the time the property was purchased for storage, use
5 or consumption by the individual if the first actual use or consumption of
6 the property was outside this state, unless the property is used in
7 conducting a business in this state.

8 7. Purchases of implants used as growth promotants and injectable
9 medicines, not already exempt under paragraph 16 of this subsection, for
10 livestock and poultry owned by, or in possession of, persons who are engaged
11 in producing livestock, poultry, or livestock or poultry products, or who are
12 engaged in feeding livestock or poultry commercially. For the purposes of
13 this paragraph, "poultry" includes ratites.

14 8. Livestock, poultry, supplies, feed, salts, vitamins and other
15 additives for use or consumption in the businesses of farming, ranching and
16 feeding livestock or poultry, not including fertilizers, herbicides and
17 insecticides. For the purposes of this paragraph, "poultry" includes
18 ratites.

19 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
20 material for use in commercially producing agricultural, horticultural,
21 viticultural or floricultural crops in this state.

22 10. Tangible personal property not exceeding two hundred dollars in any
23 one month purchased by an individual at retail outside the continental limits
24 of the United States for the individual's own personal use and enjoyment.

25 11. Advertising supplements which are intended for sale with newspapers
26 published in this state and which have already been subjected to an excise
27 tax under the laws of another state in the United States which equals or
28 exceeds the tax imposed by this article.

29 12. Materials that are purchased by or for publicly funded libraries
30 including school district libraries, charter school libraries, community
31 college libraries, state university libraries or federal, state, county or
32 municipal libraries for use by the public as follows:

33 (a) Printed or photographic materials, beginning August 7, 1985.

34 (b) Electronic or digital media materials, beginning July 17, 1994.

35 13. Tangible personal property purchased by:

36 (a) A hospital organized and operated exclusively for charitable
37 purposes, no part of the net earnings of which inures to the benefit of any
38 private shareholder or individual.

39 (b) A hospital operated by this state or a political subdivision of
40 this state.

41 (c) A licensed nursing care institution or a licensed residential care
42 institution or a residential care facility operated in conjunction with a
43 licensed nursing care institution or a licensed kidney dialysis center, which
44 provides medical services, nursing services or health related services and is
45 not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

~~(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.~~

~~(iii)~~ (ii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph ~~8~~ 7.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is

1 used by the organization solely to provide residential apartment housing for
2 low income persons over sixty-two years of age in a facility that qualifies
3 for a federal housing subsidy.

4 14. Commodities, as defined by title 7 United States Code section 2,
5 that are consigned for resale in a warehouse in this state in or from which
6 the commodity is deliverable on a contract for future delivery subject to the
7 rules of a commodity market regulated by the United States commodity futures
8 trading commission.

9 15. Tangible personal property sold by:

10 ~~(a) Any nonprofit organization organized and operated exclusively for~~
11 ~~charitable purposes and recognized by the United States internal revenue~~
12 ~~service under section 501(c)(3) of the internal revenue code.~~

13 ~~(b) A nonprofit organization that is exempt from taxation under~~
14 ~~section 501(c)(3) or 501(c)(6) of the internal revenue code if the~~
15 ~~organization is associated with a major league baseball team or a national~~
16 ~~touring professional golfing association and no part of the organization's~~
17 ~~net earnings inures to the benefit of any private shareholder or individual.~~

18 ~~(c)~~ a nonprofit organization that is exempt from taxation under
19 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
20 internal revenue code if the organization sponsors or operates a rodeo
21 featuring primarily farm and ranch animals and no part of the organization's
22 net earnings inures to the benefit of any private shareholder or individual.

23 16. Drugs and medical oxygen, including delivery hose, mask or tent,
24 regulator and tank, on the prescription of a member of the medical, dental or
25 veterinarian profession who is licensed by law to administer such substances.

26 17. Prosthetic appliances, as defined in section 23-501, prescribed or
27 recommended by a person who is licensed, registered or otherwise
28 professionally credentialed as a physician, dentist, podiatrist,
29 chiropractor, naturopath, homeopath, nurse or optometrist.

30 18. Prescription eyeglasses and contact lenses.

31 19. Insulin, insulin syringes and glucose test strips.

32 20. Hearing aids as defined in section 36-1901.

33 21. Durable medical equipment which has a centers for medicare and
34 medicaid services common procedure code, is designated reimbursable by
35 medicare, is prescribed by a person who is licensed under title 32, chapter
36 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
37 used to serve a medical purpose, is generally not useful to a person in the
38 absence of illness or injury and is appropriate for use in the home.

39 22. Food, as provided in and subject to the conditions of article 3 of
40 this chapter and section 42-5074.

41 23. Items purchased with United States department of agriculture food
42 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
43 958) or food instruments issued under section 17 of the child nutrition act
44 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
45 section 1786).

24. Food and drink provided without monetary charge by a taxpayer which is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in a school district during school hours.

~~27. Lottery tickets or shares purchased pursuant to title 5, chapter 5, article 1.~~

~~28.~~ 27. Textbooks, sold by a bookstore, that are required by any state university or community college.

~~29.~~ 28. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

~~30.~~ 29. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

~~31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.~~

~~32.~~ 30. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.~~

~~34.~~ 31. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551

1 or has a head injury as defined in section 41-3201 to be more independent and
2 functional.

3 ~~35-~~ 32. Liquid, solid or gaseous chemicals used in manufacturing,
4 processing, fabricating, mining, refining, metallurgical operations, research
5 and development and, beginning on January 1, 1999, printing, if using or
6 consuming the chemicals, alone or as part of an integrated system of
7 chemicals, involves direct contact with the materials from which the product
8 is produced for the purpose of causing or permitting a chemical or physical
9 change to occur in the materials as part of the production process. This
10 paragraph does not include chemicals that are used or consumed in activities
11 such as packaging, storage or transportation but does not affect any
12 exemption for such chemicals that is otherwise provided by this section. For
13 the purposes of this paragraph, "printing" means a commercial printing
14 operation and includes job printing, engraving, embossing, copying and
15 bookbinding.

16 ~~36-~~ 33. Food, drink and condiment purchased for consumption within the
17 premises of any prison, jail or other institution under the jurisdiction of
18 the state department of corrections, the department of public safety, the
19 department of juvenile corrections or a county sheriff.

20 ~~37-~~ 34. A motor vehicle and any repair and replacement parts and
21 tangible personal property becoming a part of such motor vehicle sold to a
22 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
23 article 4 and who is engaged in the business of leasing or renting such
24 property.

25 ~~38-~~ 35. Tangible personal property which is or directly enters into
26 and becomes an ingredient or component part of cards used as prescription
27 plan identification cards.

28 ~~39-~~ 36. Overhead materials or other tangible personal property that is
29 used in performing a contract between the United States government and a
30 manufacturer, modifier, assembler or repairer, including property used in
31 performing a subcontract with a government contractor who is a manufacturer,
32 modifier, assembler or repairer, to which title passes to the government
33 under the terms of the contract or subcontract. For the purposes of this
34 paragraph:

35 (a) "Overhead materials" means tangible personal property, the gross
36 proceeds of sales or gross income derived from which would otherwise be
37 included in the retail classification, and which are used or consumed in the
38 performance of a contract, the cost of which is charged to an overhead
39 expense account and allocated to various contracts based upon generally
40 accepted accounting principles and consistent with government contract
41 accounting standards.

42 (b) "Subcontract" means an agreement between a contractor and any
43 person who is not an employee of the contractor for furnishing of supplies or
44 services that, in whole or in part, are necessary to the performance of one
45 or more government contracts, or under which any portion of the contractor's

obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

~~40.~~ 37. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

~~41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.~~

~~42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.~~

~~43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.~~

~~44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.~~

~~45.~~ 38. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

~~46.~~ 39. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

~~47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.~~

~~48.~~ 40. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~49.~~ 41. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

~~50.~~ 42. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

~~4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.~~

~~5.~~ 4. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

~~6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.~~

~~7.~~ 5. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

~~8.~~ 6. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

~~9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.~~

~~10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.~~

~~11.~~ 7. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

~~12.~~ 8. Groundwater measuring devices required under section 45-604.

~~13.~~ 9. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines ~~not already exempt under paragraph 6 of this subsection and that are~~ used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

~~14.~~ 10. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

~~15.~~ 11. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

~~16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:~~

~~(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.~~

~~(b) Any satellite television or data transmission facility, if both of the following conditions are met:~~

~~(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data~~

~~transmission services that operate pursuant to 47 Code of Federal Regulations part 25.~~

~~(ii) Over two thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.~~

~~For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.~~

~~17.~~ 12. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph ~~14~~ 10 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

~~18.~~ 13. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

~~19.~~ 14. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

~~20.~~ 15. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are

1 used directly and primarily to prevent, monitor, control or reduce air, water
2 or land pollution.

3 ~~21. Machinery or equipment that enables a television station to~~
4 ~~originate and broadcast or to receive and broadcast digital television~~
5 ~~signals and that was purchased to facilitate compliance with the~~
6 ~~telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States~~
7 ~~Code section 336) and the federal communications commission order issued~~
8 ~~April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does~~
9 ~~not exempt any of the following:~~

10 ~~(a) Repair or replacement parts purchased for the machinery or~~
11 ~~equipment described in this paragraph.~~

12 ~~(b) Machinery or equipment purchased to replace machinery or equipment~~
13 ~~for which an exemption was previously claimed and taken under this paragraph.~~

14 ~~(c) Any machinery or equipment purchased after the television station~~
15 ~~has ceased analog broadcasting, or purchased after November 1, 2009,~~
16 ~~whichever occurs first.~~

17 ~~22.~~ 16. Qualifying equipment that is purchased from and after June 30,
18 2004 through June 30, 2014 by a qualified business under section 41-1516 for
19 harvesting or the initial processing of qualifying forest products removed
20 from qualifying projects as defined in section 41-1516. To qualify for this
21 exemption, the qualified business must obtain and present its certification
22 from the department of commerce at the time of purchase.

23 ~~23.~~ 17. Machinery, equipment and other tangible personal property used
24 directly in motion picture production by a motion picture production company.
25 To qualify for this exemption, at the time of purchase, the motion picture
26 production company must present to the retailer its certificate that is
27 issued pursuant to section 42-5009, subsection H and that establishes its
28 qualification for the exemption.

29 C. The exemptions provided by subsection B of this section do not
30 include:

31 1. Expendable materials. For the purposes of this paragraph,
32 expendable materials do not include any of the categories of tangible
33 personal property specified in subsection B of this section regardless of the
34 cost or useful life of that property.

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

37 4. Tangible personal property used in selling or distributing
38 activities, ~~other than the telecommunications transmissions described in~~
39 ~~subsection B, paragraph 16 of this section.~~

40 5. Motor vehicles required to be licensed by this state, except buses
41 or other urban mass transit vehicles specifically exempted pursuant to
42 subsection B, paragraph ~~11~~ 7 of this section, without regard to the use of
43 such motor vehicles.

44 6. Shops, buildings, docks, depots and all other materials of whatever
45 kind or character not specifically included as exempt.

1 7. Motors and pumps used in drip irrigation systems.

2 D. ~~The following~~ REVENUES RECEIVED FROM PROVIDING ELECTRICITY,
3 INCLUDING ANCILLARY SERVICES, ELECTRIC DISTRIBUTION SERVICES, ELECTRIC
4 GENERATION SERVICES, ELECTRIC TRANSMISSION SERVICES AND OTHER SERVICES
5 RELATED TO PROVIDING ELECTRICITY WITH RESPECT TO WHICH THE TRANSACTION
6 PRIVILEGE TAX IMPOSED UNDER SECTION 42-5063 HAS BEEN PAID shall be deducted
7 in computing the purchase price of electricity by a retail electric customer
8 from a utility business. ~~:-~~

9 ~~1. Revenues received from sales of ancillary services, electric~~
10 ~~distribution services, electric generation services, electric transmission~~
11 ~~services and other services related to providing electricity to a retail~~
12 ~~electric customer who is located outside this state for use outside this~~
13 ~~state if the electricity is delivered to a point of sale outside this state.~~

14 ~~2. Revenues received from providing electricity, including ancillary~~
15 ~~services, electric distribution services, electric generation services,~~
16 ~~electric transmission services and other services related to providing~~
17 ~~electricity with respect to which the transaction privilege tax imposed under~~
18 ~~section 42-5063 has been paid.~~

19 E. The tax levied by this article does not apply to:

20 1. The storage, use or consumption in Arizona of machinery, equipment,
21 materials or other tangible personal property if used directly and
22 predominantly to construct a qualified environmental technology
23 manufacturing, producing or processing facility, as described in section
24 41-1514.02. This paragraph applies for ten full consecutive calendar or
25 fiscal years after the start of initial construction.

26 2. The purchase of electricity by a qualified environmental technology
27 manufacturer, producer or processor as defined in section 41-1514.02 that is
28 used directly in environmental technology manufacturing, producing or
29 processing. This paragraph shall apply for fifteen full consecutive calendar
30 or fiscal years from the date the first paper manufacturing machine is placed
31 in service. In the case of an environmental technology manufacturer,
32 producer or processor who does not manufacture paper, the time period shall
33 begin with the date the first manufacturing, processing or production
34 equipment is placed in service.

35 3. The purchase of solar energy devices from a retailer that is
36 registered with the department as a solar energy retailer or a solar energy
37 contractor.

38 F. The following shall be deducted in computing the purchase price of
39 electricity by a retail electric customer from a utility business:

40 1. Fees charged by a municipally owned utility to persons constructing
41 residential, commercial or industrial developments or connecting residential,
42 commercial or industrial developments to a municipal utility system or
43 systems if the fees are segregated and used only for capital expansion,
44 system enlargement or debt service of the utility system or systems.

1 2. Reimbursement or contribution compensation to any person or persons
2 owning a utility system for property and equipment installed to provide
3 utility access to, on or across the land of an actual utility consumer if the
4 property and equipment become the property of the utility. This deduction
5 shall not exceed the value of such property and equipment.

6 G. For the purposes of subsection B of this section:

7 1. "Aircraft" includes:

8 (a) An airplane flight simulator that is approved by the federal
9 aviation administration for use as a phase II or higher flight simulator
10 under appendix H, 14 Code of Federal Regulations part 121.

11 (b) Tangible personal property that is permanently affixed or attached
12 as a component part of an aircraft that is owned or operated by a
13 certificated or licensed carrier of persons or property.

14 2. "Other accessories and related equipment" includes aircraft
15 accessories and equipment such as ground service equipment that physically
16 contact aircraft at some point during the overall carrier operation.

17 H. For the purposes of subsection D of this section, "ancillary
18 services", "electric distribution service", "electric generation service",
19 "electric transmission service" and "other services" have the same meanings
20 prescribed in section 42-5063.

21 Sec. 12. Conforming legislation

22 The legislative council staff shall prepare proposed legislation
23 conforming the Arizona Revised Statutes to the provisions of this act for
24 consideration in the forty-ninth legislature, second regular session.

25 Sec. 13. Effective date

26 This act is effective from and after December 31, 2009.